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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,201	01/29/2001	Denise Runde	PW-274912	9153

7590 09/10/2004	EXAMINER
Pillsbury Winthrop LLP	BLECK, CAROLYN M
Intellectual Property Group	

ART UNIT	PAPER NUMBER
3626	

Pillsbury Winthrop LLP
Intellectual Property Group
5th Floor
50 Fremont Street
San Francisco, CA 94105

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _29 January 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-10_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-10_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _29 January 2001_ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1.   This communication is in response to the application filed 29 January 2001.

Claims 1-10 are pending. An IDS statement has not been filed.

Drawings

2.   The drawings are objected to as failing to comply with 37 CFR 1.83(a) because

the features disclosed in the description and claims should be illustrated in the drawings

in a form of graphical drawing symbol or a labeled representation. Element numbers

drawn to empty boxes does not provide adequate labeling for at least one device to

detect or analyze information from the human body, a receiver-transmitter, a sensor,

and a server.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Brown (5,960,403) in view of Surwit et al. (6,024,699).

(A) As per claim 1, Brown '403 discloses a system for remotely monitoring a patient

and for training the patient to comply with a treatment plan for a health plan comprising:

(a) a blood glucose monitor, peak flow meter, and additional monitor having a

sensor and capable of sensing a blood glucose level and producing an electrical signal

representation of the levels, wherein the monitor/ meter is electrically interconnected

with a data management unit via a cable and the measurements from the monitor/meter

are uploaded from the metering device to a patient computing device, such as the data

management unit (Fig. 1, col. 4 line 55 to col. 5 line 25, col. 12 lines 44-60, col. 20 lines

24-32);

(b) universal asynchronous receiver transmitter (UART) 9 to receive the

uploaded measurements from the monitor/meter and sensor, and for communicating the

measurements to a central server/ clearinghouse or clinic server/ clinician computer

over the world wide web or a communications network (Fig. 1B, 3, col. 7 lines 15-30,

col. 7 line 56 to col. 8 line 12, col. 8 line 59 to col. 9 line 5, col. 9 lines 30-60, col. 13

lines 10-11 and 49-60); and

(c) a clinician application and server application and software supplied to the

computer/ server for analyzing, processing, printing, and displaying the measurements,

and analyzing the measurement data received to determine the educational need of the

patient, and thus creating a continuous feedback loop with a patient (col. 8 lines 13-40,

col. 9 lines 30-48, col. 10 lines 23-46).

Brown fails to expressly disclose an Internet server or web site and determining appropriate action based on the sensor information or data and preestablished algorithms or protocols.

Surwit discloses a central data processing system configured to obtain patient data from each patient monitoring system and analyze the obtained patient data to identify medical conditions of each patient, wherein the central data processing system includes medicine dosage algorithms and the ability to analyze the data to identify patients with medical conditions requiring attention/treatment and prioritize the identified patient medical conditions by severity, wherein the central data processing system implements a medication dosage algorithms to generate medication dosage recommendations. Further, Surwit discloses transmitting data over the Internet to a PAC server (abstract, Fig. 1, 3, col. 2 lines 38-55).

At the time the invention was made, it would have been obvious to one of ordinary skill to combine the features of Surwit within the system of Brown with the motivation of quickly determining a patient with a severe medical condition, thus increasing the quality of chronic disease management for patients (Surwit; col. 1 lines 13-28, col. 2 lines 10-24).

(B) As per claims 2-3, Brown discloses enabling clinicians to maintain a continuous feedback loop with a patient whose data has been uploaded to and analyzed by a clinician's computer (Abstract, col. 16 lines 39-54).

(C) As per claim 4, Brown discloses the monitoring device being a blood glucose monitor or other system monitor or sensor (Fig. 1, col. 12 lines 60-65).

(D) As per claim 5, Brown discloses the UART being capable of receiving data from at least 3 jacks connected to at least 3 monitors or meters (see Fig. 1B).

(E) As per claim 6, Brown discloses storing raw data in a database, wherein the blood glucose test results and other data are transmitted to a clearinghouse/server and stored with a digitally encoded signal that identifies both the source of the information (i.e., the system user or patient) and those having access to the stored information (i.e., the system user's doctor or other healthcare professional) (col. 9 lines 30-60, col. 16 lines 16-27).

(F) As per claim 7, Surwit discloses a case manager, physician, or nurse modifying a medicine dosage algorithm within the central data processing system (col. 3 lines 1-24).

(G) As per claim 8, Surwit discloses that data encryption and other security methods are implemented to transfer information between servers (col. 10 lines 24-33).

(H) As per claim 9, Brown and Surwit do not expressly disclose means for producing an image and transmitting it to a web site or Internet server.

However, it is respectfully submitted that it is well known in the art to generate an image via, for example, a camera or X-ray, and transmitting over a network to another computer, and the skilled artisan would have found this an obvious modification within the system taught collectively by Brown and Surwit with the motivation of allowing a user to easily and quickly review medical data for a patient (Surwit; col. 2 lines 25-35).

(I) Claim 10 repeats the same limitation as claims 1-9, and is therefore rejected for the same reasons given for those claims, and incorporated herein.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied prior art teaches a medical communication system (5,462,051), analyte monitoring device and methods of use (6,175,752), physiological sensor array (6,49,829), handheld personal data assistant with a medical device (6,641,533), remote health monitoring and maintenance system (6,168,563), and system and method for remote education using a memory card (6,330,426).

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (703) 305-3981. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Joseph Thomas can be reached at (703) 305-9588.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the Receptionist whose telephone number is (703)

306-1113.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

7.   **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 or (703) 872-9326   [Official communications]

(703) 872-9327   [After Final communications labeled "Box AF"]
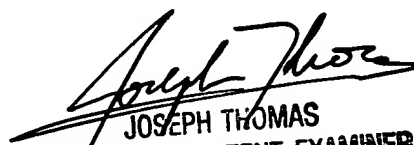
          (703) 746-8374   [Informal/ Draft communications, labeled
                                   "PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor (Receptionist).

CB
August 26, 2004

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600